



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Chrystal Kornegay, Undersecretary

**ECONOMIC DEVELOPMENT INDUSTRIAL CORPORATION (EDIC)
M.G.L. CHAPTER 121C**

1. WHAT IS AN EDIC?

An EDIC is a corporation established by a municipality for the public purpose of implementing local economic development projects in accordance with an economic development plan. Such projects are designed to decrease the unemployment rate and eliminate decadent and blighted open areas existing in a municipality.

2. GENERAL POWERS AND FUNCTIONS

Among the various entities that may be created under Massachusetts General Laws (M.G.L.) to facilitate development, EDICs enjoy the strongest development powers. However, in contrast with local redevelopment authorities, EDIC activities are limited to development involving industrial and manufacturing uses. Their primary powers are:

- to prepare, or cause to be prepared, plans and cost estimates for economic development projects;
- to acquire and hold any property by negotiation, by eminent domain if approved by a two-thirds vote of the municipality, or otherwise;
- to carry out improvements necessary to the development of the area sited for industrial and manufacturing development in accordance with an economic development plan;
- to sell, convey, mortgage, lease, transfer, exchange, or otherwise dispose of any property or interest in the property as may be required;
- to borrow money, invest money, and issue bonds, including revenue bonds;
- to receive and accept grants, loans, or advances from any federal agency, the Commonwealth, or the municipality;
- to finance pollution control facilities;
- to manage any project whether owned or leased by the corporation (EDIC), and, to enter into agreements with public or private interests for the purpose of managing the project;

- to act as an urban renewal corporation under Chapter 121A.

3. WHO IS ELIGIBLE TO CREATE AN EDIC?

Any municipality designated by the U.S. Labor Department as a labor surplus area due to high unemployment is eligible to establish an EDIC under Chapter 121C. The U.S. Labor Department issues the listing of labor surplus areas on a fiscal year basis. The listing becomes effective each October 1, and remains effective through the following September 30. Annual listings may be obtained from the Labor Department's Employment & Training Administration (ETA), (617) 626-5741. The list of labor surplus areas and a complete description of the classification criteria, as well as annual updates, are contained in Area Trends in Employment and Unemployment, a monthly publication prepared by the ETA. This publication may be obtained from the U.S. Government Printing Office, Washington, D.C. (202) 512-1800.

4. CONSOLIDATED EDICs

Section 3 of Chapter 121C authorizes the formation of a consolidated EDIC by two or more municipalities. DHCD strongly encourages such consolidations especially by communities within the same labor market. Consolidations are advantageous because they can:

- reduce the ability of companies seeking to play one neighboring community off against another;
- prevent the excessive use of eminent domain to assemble industrial sites, particularly by neighboring communities competing for the same companies;
- address regional impacts regarding the location of industrial development sites;
- explore opportunities to cooperate in the provision of water and sewerage services, utilities, and road/rail access to key industrial sites in the area; and
- allow communities to jointly underwrite the costs of technical assistance and marketing industrial development and efforts to keep existing firms and jobs in the labor market.

5. HOW DOES A MUNICIPALITY ORGANIZE AN EDIC?

A municipality must take a vote regarding the need for an EDIC. The vote should declare the need for an EDIC in a municipality due to the existence of unemployment and to protect the municipality from the threat of future unemployment or lack of business opportunity. In this regard, a municipality would establish an EDIC to attract new industry into the community, to substantially expand existing industry through an economic development project(s) to be financed and implemented by an EDIC and to otherwise alleviate the unemployment and lack of business opportunity problems.

In a city with a Plan D or E form of Charter, an affirmative vote by the city council is necessary. The city manager must also approve the EDIC. In any other city, an affirmative vote by the city council is necessary along with the approval by the mayor. In towns, an affirmative vote at town meeting is necessary. Under C.121C, towns must receive certification from the Department of

Housing and Community Development (DHCD) for the establishment of EDICs. Cities are not required to receive certification from DHCD.

In the event that two or more municipalities wish to consolidate their EDICs, each municipality must vote approving its participation in the consolidated EDIC. The vote for consolidation may be made at the same time as the vote to organize the EDIC or may be made at a later time. Copies of the votes for consolidation should be included in a written Memorandum of Understanding between consolidation municipalities.

6. PROCEDURES FOR CERTIFICATION

Certification involves towns only; cities do not need the approval of the Department of Housing and Community Development to establish an EDIC.

After an affirmative vote by the town meeting to establish an EDIC, the following documents for certification should be submitted by the board of selectmen or chief administrative official to DHCD:

1. a transmittal letter from the board of selectmen or other town official requesting certification;
2. a certified copy of the town meeting vote establishing the need for an EDIC and authorizing its creation;
3. a comprehensive local economic development plan (see 4(a) below);
4. documentation setting forth facts that the town believes will meet the certification requirements of Chapter 121C, Section 1, (7)a through (7)d, including:
 - a. “that the corporation (EDIC) is to become an integral part of a comprehensive development program.” The town should have prepared, or be in the process of preparing, a comprehensive development plan. The plan should set forth the town’s goals and objectives for meeting economic development and the town should indicate the role that the EDIC will play in meeting such goals and objectives. The plan should be coordinated with any regional plan(s).
 - b. “that the town has a demonstrable and significant demand for industrial land.” Evidence to demonstrate such a demand could consist of letters of inquiry from industries, local realtors, or land development agencies; market surveys indicating a potential for industrial demand or other documentation that specifies a demand for industrial land.
 - c. “that the assembly of local industrial land by private developers or realtors is non-competitive with similar land assemblies in surrounding cities and towns due either to absolute shortage of land, or, to existing zoning restrictions.” The town should provide documentation which demonstrates that the town is at a disadvantage and is unable to compete with neighboring communities owing to one of the following: shortage of vacant land in the community suitable for industrial development; shortage of land with available sewerage, water, roads,

rail service, and other infrastructure; or restrictive zoning provisions which impose a high degree of control over industrial developments which make the land less attractive to potential developers.

d. “that the local redevelopment authority, if one exists, is unable to provide such assemblies of land as are necessary for economic development.” If there is no redevelopment authority in the town, the certification requirement is met. If a redevelopment authority exists, documentation must be submitted which indicates the reasons why the redevelopment authority has been unable to assemble industrial land, such as prior commitments to urban renewal projects, the authority’s decision not to involve itself in industrial development, or other such reasons. In order to avoid needless fragmentation of local responsibility for economic development, the DHCD policy generally discourages the creation of an EDIC where a redevelopment authority already exists.

5. Department of Labor Statistics which indicate that the town is in an area of substantial unemployment;
6. Documentation which shows that the economic development area(s) in the municipality is decadent, blighted, or substandard as defined by Chapter 121B, Section 1, is zoned for industrial or manufacturing uses, and contains no more than forty-five dwelling units;
7. A copy of a plan showing the economic development area(s) which is decadent, blighted, or substandard; and
8. A list of seven members, appointed to the board of directors of the EDIC including qualifications, names of members and terms of office. The list must be certified by the appointing authority.

Mail all documentation to: Ashley Emerson, Director, Bureau of Relocation
Depart. of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114

Mail a copy to: Massachusetts Office of Business Development
One Ashburton Place, 21st Floor
Boston, MA 02133

7. PROCEDURES FOR APPOINTING THE EDIC BOARD OF DIRECTORS

The Board of Directors consists of seven members appointed by the municipality and include:

- one member experienced in industrial development
- one member experienced in financial matters
- one member experienced in real estate matters
- one member representative of low income people
- one member experienced in municipal government

The members should be appointed so that two of the board members serve a one year term, two serve for two years, and three serve for three years. Upon expiration of a term of office, new members should be appointed for three years.

EDIC board members are appointed by the mayor with city council confirmation in a city with a Plan D or E form of Charter; by the city manager with city council confirmation in any other city; and by the board of selectmen in a town.

8. USE OF EMINENT DOMAIN

Section 5, Part 1, of Chapter 121C, authorizes an EDIC to acquire lands by eminent domain in accordance with Chapter 79 or Chapter 80A of M.G.L. Eminent domain may only be exercised if there is an affirmative two-thirds vote by the city council, with the approval of the mayor or city council in cities, or by the town meeting in a town. A public hearing must be held before such vote and the advice of the Massachusetts Office of Business Development and the Director of the Department of Housing and Community Development must be obtained before proceeding with any eminent domain taking. DHCD strongly encourages municipalities to work through open negotiations and final settlements with land owners and to use eminent domain powers as a last resort.

9. PREPARATION OF AN ECONOMIC DEVELOPMENT PLAN

An economic development plan is a detailed plan showing one or more economic development projects within an economic development area. No economic development project can be undertaken by an EDIC without an approved economic development plan.

Following DHCD certification of the EDIC, and before any actual economic development projects may be undertaken, an economic development plan must be approved by town meeting. Please note that this town approved plan may be the same as or different than the comprehensive economic development plan submitted to DHCD as part of the EDIC certification process.

The contents of the plan should include:

- the boundaries of the area
- the areas of land acquisition
- structures to be demolished, removed, or rehabilitated
- proposals for development, redevelopment, and general public improvements
- proposed zoning and planning changes, if any

Any economic development plan submitted to the municipality must also be accompanied by:

- a report on the plan prepared by the municipal planning agency
- a statement regarding the proposed method for financing each project covered by the plan
- a comprehensive relocation plan
- a certification that occupants of the designated economic development area shall make every reasonable effort to hire residents of the municipality for employment opportunities for a period of 40 years following approval of the economic development plan

Before an economic development project can be undertaken, the EDIC must hold a public hearing on the economic development plan covering such project(s). Notice of the public hearing must be given to:

- persons, groups, and organizations who have made a written request to receive notice
- Massachusetts Office of Business Development
- Director, Department of Housing and Community Development
- any agency likely to have an interest in such plan in the opinion of EDIC
- State Senators/Representatives who represent the economic development areas
- each community group supported by public funds whose territory coincides with the economic development area

The EDIC, as appropriate, should consult with the above individuals/groups/organizations/agencies in preparing the economic development plan.

An economic development plan must be approved by the municipality by a two-thirds vote of the city council with the approval of the mayor or city manager, or, by a two-thirds vote of an annual town meeting or a special town meeting called for this purpose.

If the economic development plan is approved by the municipality, the EDIC shall have the powers and duties imposed by Chapter 121C to undertake and carry out the economic projects covered by the plan. If no economic development project covered by the economic development plan is undertaken within a 7-year period following approval of the plan, then the plan shall lapse. Once the economic development plan is submitted to DHCD and accepted, changes in the plan do not require further DHCD review -- beyond submission of an annual report.

10. ECONOMIC DEVELOPMENT ORGANIZATIONS ESTABLISHED UNDER SPECIAL ACTS OF THE LEGISLATURE

In order to take advantage of the broad powers available to EDICs under C.121C, a number of communities have used C.121C as the basis for special legislation that expands the range of eligible activities beyond industrial and manufacturing to include commercial, business, recreational, social services, educational and other nonindustrial projects. Communities, ineligible under C.121C to establish EDICs because they are not designated as labor surplus areas by the U.S. Labor Department, may use special legislation to establish EDIC-like organizations to undertake local economic development projects. Examples of EDIC-like organizations established under special acts include: Amherst EDIC - Chapter 93/1995, Billerica Financial Development Corporation - Chapter 165/1994, Brockton 21st Century - Chapter 137/1993, Everett Development & Finance Corporation - Chapter 73/1982, Framingham EDIC - Chapter 124/1995, Quincy 2000 - Chapter 102/1992, Watertown EDIC - Chapter 460/1996

Under special legislation, a municipality is able to add specific features to the organizational structure, powers and authority and activities that are viewed as relevant to its specific local context. In this way, EDICs have become the primary economic development tool for many municipalities from which all planning and program implementation originates.

11. PROCEDURES FOR DHCD CERTIFICATION OF EDIC

Towns must receive certification from the Director of the Department of Housing and Community Development (DHCD) in order to establish an Economic Development Industrial Corporation (EDIC). Cities are not required to seek DHCD certification. To be certified, the board of selectmen or chief executive must submit the following:

1. A letter requesting certification;
2. A certified copy of the town meeting vote establishing the need for an EDIC and authorizing its creation;
3. A comprehensive economic development plan (see 4(a) below);
4. Documents setting forth facts that the town believes will meet the certification requirements of Chapter 121C, Section 1, (7)a through (7)d, including:
 - a. ***“that the corporation (EDIC) is to become an integral part of a comprehensive development program.”*** The town should have prepared, or be in the process of preparing, a comprehensive development plan. The plan should set forth the town’s goals and objectives for meeting economic development and the town should indicate the role that the EDIC will play in meeting such goals and objectives. The plan should be coordinated with any regional plan(s).
 - b. ***“that the town has a demonstrable and significant demand for industrial land.”*** Evidence to demonstrate such a demand could consist of letters of inquiry from industries, local realtors, or land development agencies; market surveys indicating a potential for industrial demand or other documentation that specifies a demand for industrial land.
 - c. ***“that the assembly of local industrial land by private developers or realtors is non-competitive with similar land assemblies in surrounding cities and towns due either to absolute shortage of land, or, to existing zoning restrictions.”*** The town should provide documentation which demonstrates that the town is at a disadvantage and I is unable to compete with neighboring communities owing to one of the following: shortage of vacant land in the community suitable for industrial development; shortage of land with available sewerage, water, roads, rail service, and other infrastructure; or restrictive zoning provisions which impose a high degree of control over industrial developments which make the land less attractive to potential developers.
 - d. ***“that the local redevelopment authority, if one exists, is unable to provide such assemblies of land as are necessary for economic development.”*** If there is no redevelopment authority in the town, the certification requirement is met. If a redevelopment authority exists, documentation must be submitted which indicates the reasons why the redevelopment authority has been unable to assemble industrial land, such as prior commitments to urban renewal projects, the authority’s decision not to involve itself in industrial development, or other such reasons. In order to avoid needless fragmentation of local responsibility for economic development, the DHCD policy generally discourages the creation of an EDIC where a redevelopment authority already exists.

5. Department of Labor Statistics indicating that the town is in an area of surplus labor -- i.e., substantial unemployment;
6. Documentation showing that the economic development area(s) in the municipality is decadent, blighted, or substandard as defined by Chapter 121B, Section 1, is zoned for industrial or manufacturing uses, and contains no more than forty-five dwelling units;
7. A list of the seven members, appointed to the board of directors of the EDIC, including qualifications, their names and terms of office. The list must be certified by the appointing authority.

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Dept. of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, MA 02202

Mail a copy to: Massachusetts Office of Business Development
One Ashburton Place, 21st Floor
Boston, MA 02133

For more information contact: (617) 573-1400